Committee Report

To: Warden Mitch Twolan  
Members of the Planning and Development Committee

From: Kara Van Myall  
Director of Planning and Development

Date: December 19, 2019

Re: Bruce County Official Plan Amendment 246 - Calhoun

Staff Recommendation:

That Bruce County Official Plan Amendment 246 - Calhoun not be approved.

Executive Summary:

The subject lands are located at municipal address 444 Concession 14 E. The farm is 170 acres in size and has frontage onto both Bruce County Road 19 and Concession 14 E. The current residence is located off Concession 14 E.

The proposal was submitted by Calhoun Hidden Creek Farms Ltd. and involves:

- An amendment to the Bruce County Official Plan to permit a new residential lot in an Agricultural Area; and,

- A Consent application to create the lot.

This report and recommendation deals with the Official Plan Amendment application.

The proposed severance would create fragmentation in the agricultural area and would not be compatible with agricultural uses. For reasons of both fragmentation and land use compatibility, neither the Bruce County Official Plan or the Provincial Policy Statement permit vacant residential lot creation in Agricultural Areas (PPS 2.3.4.3 and BCOP 6.5.3.3). This amendment will permit a site-specific severance to allow the proposed consent to move forward. The application is not consistent with the Provincial Policy Statement, does not conform to the intent and purpose of the County Official Plan and would not be good land use planning.

Description of Proposal:

The applicant has applied to sever a 9.4 acre parcel for residential purposes with frontage onto Bruce County Road 19. The retained lot would be approximately 160 acres. A site plan and air photo of the subject lands are shown below.
Site Plan

Air photo (northern portion with proposed land to be severed)
Planning Analysis and Comments

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant planning policy sections.

The applicant has not submitted any further studies for consideration.

Fragmentation
The property is designated Agricultural Area in the Official Plan and is within a prime agricultural area. One of the planning goals in the Agricultural Area designation is to protect and strengthen the agricultural community. Agriculture is one of the most important components of Bruce County’s economy, involving over 3,750 farm operators who generate over $255 million in gross sales annually. There is also a wide variety of supporting and processing industries which are related to the production of food.

The constraint to farming within Bruce County has not been the expansion of urban areas, such as the Greater Toronto Area or City of London, but rather the cumulative impact of residential lots scattered across the agricultural areas. Once created, rural non-farm lots exist within the agricultural resource for a long time. By effectively managing this activity, the options and flexibility of the individual farm operator are better protected.

The Agricultural consent policies in the County Official Plan are intended to preserve large blocks of agricultural land and minimize fragmentation.

Land Use Compatibility
This new non-farm lot would also restrict future neighbouring agricultural operations and potentially weaken future agricultural viability.

One measure of land use compatibility related to odour is the Minimum Distance Separation formulae which are applied to new lots and new livestock facilities. The two closest barns are located at 1891 Bruce Road 19 and 1527 Sideroad 25N. The distances between the proposed lot and the barns are 138 m and 242 m respectively. Currently, the barns are unoccupied at these two locations. A smaller setback is required for barns that are currently unoccupied. Based on this, the proposed lot meets the MDS I setback requirement of 138 m; however, Committee should also be aware that if future owners of the neighbouring lands wish to construct a barn, they will have to meet the MDS II setback to the new house.

For example, an average new dairy facility with 90 cows, and 50 heifers, 10 calves and a manure storage would have an MDS II setback of 233 m to the barn and a 310 m setback from the manure storage. This facility would not meet the setbacks to the building cluster across the road or to the East. The proponent of the facility would be forced to locate outside of the building cluster and may not be able to utilize existing infrastructure including: hydro, well, driveways etc.
It should also be noted that these setbacks impact Mr. Calhoun’s neighbours and not his operation. Mr. Calhoun’s operation is +/- 801 m from the proposed lot. While this may not affect the current owners’ plans since they do not have an intention to have livestock, the proposed residence will adversely affect the future expansion potential of the adjacent farms for livestock.

The MDS calculations, both actual and theoretical, are attached in Appendix 3.

In addition to odour, non-farm residential lots can introduce residents who may have limited understanding of current methods of agricultural production. Conflicts surrounding noise, dust, chemical applications, and sharing the road with farm machinery can arise.

**Archeology:**
The Vesta Creek will bind the Southern part of the proposed lot. Being within 300 m of a waterbody triggers the property to have high archeological potential. An archeological study will be a condition of consent and will have to be completed prior to certification of the deeds. The applicant is aware of this requirement.

**Provincial Interests**
Under Section 2.3.4.3 the creation of new residential lots in prime agricultural areas is not permitted. Therefore, the application is not consistent with the Provincial Policy Statement. The relevant Provincial Policy Statement policies are cited in Appendix 1.
## County Official Plan

<table>
<thead>
<tr>
<th>Policy</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.5.1.1 The purpose of the Agricultural Areas policies is to protect and strengthen the agricultural Community, which is recognized as a major economic component of the County. The policies protect Agricultural Areas from the intrusion of land uses that are not compatible with agricultural operations.</td>
<td>The Agricultural Areas of Bruce County represent essentially large industrial areas focused on farming. There are noises, lights, odours, dust and a significant portion of the work happens outside of “normal” work hours. This can very easily lead to neighbour conflict between residential uses and neighbouring farmers.</td>
</tr>
<tr>
<td>5.5.2.</td>
<td>iii) Protect farms from incompatible activities and land uses in Agricultural Areas; iv) Minimize fragmentation of prime agricultural land in the Agricultural Areas; vii) Direct non-agricultural development to settlement areas; ix) Preserve and strengthen the Agricultural Area for active farming operations.</td>
</tr>
<tr>
<td>5.5.5 2. Development within the Agricultural Areas will occur in a manner which provides for large continuous areas of prime farmland free from conflicting and incompatible land uses. An area may be excluded from prime agricultural areas only if it complies with Section 2.3.5 of the Provincial Policy Statement (PPS).</td>
<td></td>
</tr>
<tr>
<td>3 The Agricultural Areas of the County are intended to permit primarily agricultural uses, uses which are supportive of agriculture, and limited non-farm development by the severance of surplus dwellings.</td>
<td></td>
</tr>
</tbody>
</table>

Based on the comments above, the proposed amendment would not conform with the intent and purpose of the County Official Plan.

### Zoning By-law

The application complies with the Comprehensive Zoning By-law of the Municipality of Brockton.
Agency Comments

Ministry of Municipal Affairs and Housing:

- The subject lands and surrounding area are comprised of Canada Land Inventory (CLI) Class 1 lands and to a lesser extent Class 2 and 5 lands.

- Consideration has been given to this matter in terms of the policies of the Provincial Policy Statement, 2014 (PPS). The government recently concluded consultations on proposed changes to the PPS to support the government’s Housing Supply Action Plan and other land use planning related priorities. As part of these consultations, the Ministry received comments regarding prime agricultural consent policies and heard about the need to protect prime agricultural areas for long-term use for agriculture.

- Specifically, PPS policy 2.3.4.1 states that lot creation in prime agricultural areas is discouraged and may only be permitted for agricultural uses, agriculture-related uses, a residence surplus to a farming operation as a result of a farm consolidation, and infrastructure.

- PPS policy 2.3.4.3 sets out that the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with PPS policy 2.3.4.1(c). PPS policy 2.3.4.1(c) allows for the creation of a lot for a residence surplus to a farming operation as a result of farm consolidation, with certain provisions. The proposed applications would permit the creation of a new vacant residential lot within a prime agricultural area, which is not surplus to a consolidated farming operation.

- In summary, the county must ensure that its decisions on the proposed applications would be consistent with the lot creation policies for prime agricultural areas, namely PPS policies 2.3.4.1(c), 2.3.4.3, and 2.3.3.3

[The Provincial Policy Statement policies are attached in their entirety in Appendix 1, MMAH’s letter is attached in Appendix 2].

Saugeen Valley Conservation Authority:

- Natural Heritage features identified include: fish habitat and potential Species at Risk.
  - Provided future development is located beyond the SVCA Hazardous Lands, it is the opinion of SVCA staff that negative impacts to fish habitat and its adjacent lands are likely to be negligible, and SVCA staff are not requesting the preparation of an Environmental Impact Study (EIS) for this proposal at this time.
  - It is the responsibility of the applicant to ensure the endangered species and threatened species policy referred to in the PPS has been appropriately addressed.

- Portions of the property are within the SVCA Approximate Screening Area associated with the SVCA’s Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 169/06, as amended). Depending on the proposed location of a future dwelling and related development on the parcel proposed to be severed, further review and permission from the SVCA may be required.
• All of the plan review functions listed in the Agreement have been assessed with respect to the application. The proposed Bruce County OP amendment is acceptable to SVCA staff.

**Municipality of Brockton:**

• No comments

**Bruce Grey Catholic District School Board:**

• No comments

**Hydro One:**

• No comments

**Bruce County Transportation and Environmental Services Department:**

• The setback for new structures is 33 m from the centre of the road.
• Entrance permit will be required if altering/ re-locating driveway.

**Public Comments**

No comments were received at the time of writing this report.

**Financial/Staffing/Legal/IT Considerations:**

Potential Appeal to Local Planning Appeals Tribunal

Written by:
Dana Kieffer, M.Sc.
Planner, Planning and Development
Appendix 1 - Provincial Policy Statement Policies 2014

2.3 Agriculture

2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

2.3.3.3 New land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the minimum distance separation formulae.

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

   a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;

   b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;

   c) a residence surplus to a farming operation as a result of farm consolidation, provided that: 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and

   d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

2.3.4.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).
November 15, 2019

Candace Hamm
Applications Technician
Planning and Development
Corporation of the County of Bruce
bcplwa@brucecounty.on.ca

Re: Bruce County Official Plan Amendment No. 246-19.34 and related matters
Concession 15, Lot 24, South Part Lot 23, Geographic Township of Brant,
Municipality of Brockton, County of Bruce
One Window Comments

Dear Ms. Hamm,

Thank you for circulating proposed Bruce County Official Plan Amendment No. 246-19.34 (OPA 246) and the associated consent application to the Ministry of Municipal Affairs and Housing (MMAH). This matter was further circulated through the One Window Planning Service to the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) for their review and comment. It is recognized that OPA 246 is exempt from the Minister’s approval and the following One Window comments are provided to the County of Bruce for its consideration in making a decision on this matter.

Provincial staff have completed their review of the above noted proposal to sever an approximately 3.8-hectare (9.4 acre) non-farm residential lot from an approximately 69-hectare (170 acre) farm lot on lands designated ‘Agricultural Area’ and ‘Hazard’ in the Bruce County Official Plan. The subject lands are legally described as Concession 15, Lot 24, South Part Lot 23, Geographic Township of Brant, in the Municipality of Brockton. The subject lands and surrounding area are comprised of Canada Land Inventory (CLI) Class 1 lands and to a lesser extent Class 2 and 5 lands.

Consideration has been given to this matter in terms of the policies of the Provincial Policy Statement, 2014 (PPS). The government recently concluded consultations on proposed changes to the PPS to support the government’s Housing Supply Action Plan and other land use planning related priorities. As part of these consultations, the Ministry received comments regarding prime agricultural consent policies and heard about the need to protect prime agricultural areas for long-term use for agriculture.
Specifically, PPS policy 2.3.4.1 states that lot creation in prime agricultural areas is discouraged and may only be permitted for agricultural uses, agriculture-related uses, a residence surplus to a farming operation as a result of a farm consolidation, and infrastructure.

PPS policy 2.3.4.3 sets out that the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with PPS policy 2.3.4.1(c). PPS policy 2.3.4.1(c) allows for the creation of a lot for a residence surplus to a farming operation as a result of farm consolidation, with certain provisions. The proposed applications would permit the creation of a new vacant residential lot within a prime agricultural area, which is not surplus to a consolidated farming operation.

In summary, the county must ensure that its decisions on the proposed applications would be consistent with the lot creation policies for prime agricultural areas, namely PPS policies 2.3.4.1(c), 2.3.4.3, and 2.3.3.3.

We trust that these comments are helpful to the county in its consideration of OPA 246 and the associated consent application. Provincial staff are available to discuss these comments. If you have any questions or concerns, please contact the undersigned. By copy of this letter, MMAH requests that the county provide the undersigned with notice of the decision for this matter.

Kind regards,

Tyler Shantz, BES
Planner

Ministry of Municipal Affairs and Housing
Municipal Services Office – Western Ontario
659 Exeter Road, 2nd Floor
London ON N6E 1L3
Tel: 519 873-4695
Cel: 519 851-3954
E-mail: Tyler.Shantz@Ontario.ca

Cc (e-mail only): David Marriott, OMAFRA
John Turvey, OMAFRA
Erick Boyd, MMAH
Appendix 3 - MDS I & II Calculations

Minimum Distance Separation I
Worksheet 1
Prepared By: Dana Kieffer, Planner, County of Bruce

Description:
Application Date: Thursday, October 3, 2019
Municipal File Number: 410434000709600
Proposed Application: Lot creation for a maximum of three non-agricultural use lots
Type A Land Use

Applicant Contact Information: Not Specified
Location of Subject Lands: County of Bruce, Municipality of Brockton
BRANT, Concession: , Lot:
Roll Number: 410434000709600
Total Lot Size: 35 ha

Calculation Name: Farm 1
Description:

Farm Contact Information: Not Specified
Location of existing livestock facility or anaerobic digester: County of Bruce, Municipality of Brockton
BRANT, Concession: , Lot:
Roll Number: 410434000709600
Total Lot Size: 35 ha

The barn area is an estimate only and is intended to provide users with an indication of whether the number of livestock entered is reasonable.

<table>
<thead>
<tr>
<th>Manure Type</th>
<th>Type of Livestock/Manure</th>
<th>Existing Maximum Number</th>
<th>Existing Maximum Number (NU)</th>
<th>Estimated Livestock Barn Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid</td>
<td>Beef, Cows, including calves to weaning (all breeds), Yard/Barn [Livestock barn is currently unoccupied]</td>
<td>24</td>
<td>24.0</td>
<td>111 m²</td>
</tr>
</tbody>
</table>

Existing Manure Storage: V3. Solid, outside, no cover; >= 30% DM

Design Capacity (NU): 24.0
Potential Design Capacity (NU): 48.0

Building Base Distance 'F' (minimum distance from livestock barn) = 138 m (453 ft)
Storage Base Distance 'S' (minimum distance from manure storage) = 138 m (453 ft)

Preparer Information:
Dana Kieffer
Planner
County of Bruce
Email: dkiieffer@brucecounty.on.ca

Signature of Preparer: Dana Kieffer, Planner

NOTE TO THE USER:
The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has developed this software program for distribution and use with the Minimum Distance Separation (MDS) Formulate as a public service to assist farmers, consultants, and the general public. This version of the software distributed by OMAFRA will be considered to be the official version for purposes of calculating MDS. OMAFRA is not responsible for errors due to inaccurate or incorrect data or information; mistakes in calculation; errors arising out of modification of the software; or errors arising out of incorrect inputting of data. All data and calculations should be verified before acting on them.

Date Prepared: Oct 3, 2019 11:08 AM
782985
Theoretical

Minimum Distance Separation II
Worksheet 1
Prepared By: Dana Kieffer, Planner, County of Bruce

Description:

Application Date: Thursday, October 3, 2019
Municipal File Number:

Applicant Contact Information: Not Specified
Location of Subject Livestock Facilities: County of Bruce, Municipality of Brockton
BRANT, Concession 4, Lot:

Roll Number: 410339000203200

Calculation Name: Farm 1

Description:
The barn area is an estimate only and is intended to provide users with an indication of whether the number of livestock entered is reasonable.

<table>
<thead>
<tr>
<th>Manure Type</th>
<th>Type of Livestock/Manure</th>
<th>Existing Maximum Number</th>
<th>Existing Maximum Number (NU)</th>
<th>Total Maximum Number</th>
<th>Total Maximum Number (NU)</th>
<th>Estimated Livestock Barn Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquid</td>
<td>Dairy, Milking-age Cows (dry or milking) Large Frame (545 - 858 kg) (eg. Holsteins), 3 Row Free Stall</td>
<td>0</td>
<td>0.0</td>
<td>90</td>
<td>128.6</td>
<td>878 m²</td>
</tr>
<tr>
<td>Liquid</td>
<td>Dairy, Heifers Medium Frame (146 - 455 kg) (eg. Guernseys), Pack Scrap</td>
<td>0</td>
<td>0.0</td>
<td>50</td>
<td>20.8</td>
<td>372 m²</td>
</tr>
<tr>
<td>Liquid</td>
<td>Dairy, Cows Large Frame (45 - 182 kg) (eg. Holsteins)</td>
<td>0</td>
<td>0.0</td>
<td>10</td>
<td>1.7</td>
<td>33 m²</td>
</tr>
</tbody>
</table>

Manure Storage: M1. Liquid, outside, no cover, straight-walled storage

Existing design capacity (NU): 0.0
Design capacity after alteration (NU): 151.1

\[
0.7 \times 364.8 \times 1.1400 \times 0.8 = \frac{233}{764} \text{ ft}
\]

Building Base Distance F’ (minimum distance from livestock barn) 233 m (764 ft)
Storage Base Distance S’ (minimum distance from manure storage) 310 m (1016 ft)

MDS II Setback Distance Summary

<table>
<thead>
<tr>
<th>Description</th>
<th>Minimum Livestock Barn Setback Distance</th>
<th>Actual Livestock Barn Setback Distance</th>
<th>Minimum Manure Storage Setback Distance</th>
<th>Actual Manure Storage Setback Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type A Land Uses</td>
<td>233 m 764 ft</td>
<td>TBD</td>
<td>310 m 1,016 ft</td>
<td>TBD</td>
</tr>
<tr>
<td>Type B Land Uses</td>
<td>466 m 1,528 ft</td>
<td>TBD</td>
<td>619 m 2,031 ft</td>
<td>TBD</td>
</tr>
<tr>
<td>Nearest lot line (side or rear)</td>
<td>23 m 76 ft</td>
<td>TBD</td>
<td>30 m 96 ft</td>
<td>TBD</td>
</tr>
<tr>
<td>Nearest road allowance</td>
<td>47 m 153 ft</td>
<td>TBD</td>
<td>60 m 197 ft</td>
<td>TBD</td>
</tr>
</tbody>
</table>